

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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THE CITY OF NEW YORK,

Plaintiff,

-against-

**NOT FOR PUBLICATION  
MEMORANDUM & ORDER**  
08-CV-3966 (CBA)

GOLDEN FEATHER SMOKE SHOP, INC., KIMO  
SMOKE SHOP, INC., SMOKE AND ROLLS INC.,  
SHAWN MORRISON, KIANA MORRISON, in her  
individual capacity, MONIQUE'S SMOKE SHOP,  
ERNESTINE WATKINS, in her individual capacity,  
JESSEY WATKINS, WAYNE HARRIS, PEACE PIPE  
SMOKE SHOP, RODNEY MORRISON, Sr.,  
CHARLOTTE MORRISON, in her individual capacity,  
RED DOT & FEATHERS SMOKE SHOP, INC.,  
RAYMOND HART, in his individual capacity,  
SMOKING ARROW SMOKE SHOP, DENISE  
PASCHALL, in her individual capacity, TONY D.  
PHILLIPS, TDM DISCOUNT CIGARETTES, and  
THOMASINA MACK, in her individual capacity,

Defendants.

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AMON, United States District Judge.

Defendants have made an application for reconsideration of this Court's order dated March 16, 2009. At the appropriate time the Court will set a schedule for this motion if defendants wish to pursue it. The parties are actively involved in preparations for preliminary injunction proceedings, and the Court will not disrupt those preparations now.

Although defendants will be permitted to make their motion, the Court notes that there was ample opportunity to present the evidence defendants now claim they would submit in support of an application for reconsideration. The time to submit such evidence was with the briefing of defendants' motion to dismiss. Contrary to defendants' assertion, counsel did not seek leave at oral argument to file additional factual support for their claims. Counsel merely stated that deficiencies in defendants' evidentiary presentation could be remedied and made

assertions as to what additional evidence could be provided. (See Oral Argument Tr., Feb. 26, 2009, at 8-10, 14-19.) In the March 16, 2009 opinion, this Court assumed all of counsel's representations to be true even though they were not properly before the Court. See City of New York v. Golden Feather Smoke Shop, No. 08-CV-3966, 2009 WL 705815, at \*6-\*7 (E.D.N.Y. Mar. 16, 2009) (“[E]ven assuming defendants’ representations regarding the nature of the businesses to be true . . .”).

SO ORDERED.

Dated: Brooklyn, New York  
April 2, 2009

Carol Bagley Amon  
United States District Judge